

AN ACT

ENTITLED, An Act to revise certain provisions regarding the licensing of certain counselors and to repeal certain provisions relating to the licensing of counselor associates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-32-13 be amended to read as follows:

36-32-13. An applicant for a license as a licensed professional counselor shall file an application, and an application fee with the board on a form and in the manner prescribed by the board. The board shall issue a license as a licensed professional counselor to an applicant who pays a license fee and furnishes satisfactory evidence of the following to the board:

- (1) The applicant is at least nineteen years of age;
- (2) The applicant is of good moral character;
- (3) The applicant resides in the State of South Dakota, or is granted an exemption to residency by the board, pursuant to § 36-32-16;
- (4) The applicant is not in violation of any of the provisions of this chapter and the rules adopted pursuant to this chapter;
- (5) The applicant has received a doctorate or master's degree in counseling including a supervised counseling internship, which consists of at least forty-eight semester credit hours, which are from an accredited institution of higher learning. The board shall use the standards of nationally recognized professional counseling associations as guides in establishing the standards for counselor licensure;
- (6) The applicant has two thousand hours of supervised full-time experience in professional counseling acceptable to the board, all of which shall be obtained subsequent to the granting of the master's degree; and
- (7) The applicant demonstrates competence in professional counseling by passing an examination, written, oral or situational, or all three, as the board may prescribe by rule

promulgated pursuant to chapter 1-26.

Section 2. That § 36-32-14 be repealed.

Section 3. That § 36-32-15 be repealed.

Section 4. That § 36-32-20 be amended to read as follows:

36-32-20. Any license issued by the board expires on the last day of December of the year of issuance. A license may be renewed each year in the manner and upon the payment of a fee established by the board by rules promulgated pursuant to chapter 1-26. A licensee failing to renew a license prior to February first may be required to pay a late fee as prescribed in rules promulgated by the board. A license not renewed by July first is inactive, and may not be renewed.

Section 5. That § 36-32-22 be amended to read as follows:

36-32-22. The board shall annually furnish upon payment of a fee set by the board by rules promulgated pursuant to chapter 1-26, a list of the names and addresses of all persons licensed under this chapter who are:

- (1) Licensed professional counselors; and
- (2) Licensed professional counselors - mental health.

Section 6. That § 36-32-24 be amended to read as follows:

36-32-24. Any licensed professional counselor or licensed professional counselor - mental health who allows the license to become inactive may, within two years of the expiration of the license, have the inactive license restored to active status by paying the renewal fee for the current year, along with any applicable late fees. However, no inactive license may be restored unless the applicant meets all continuing education requirements.

Section 7. That § 36-32-25 be amended to read as follows:

36-32-25. Any licensee desiring to regain licensure after allowing a license to be inactive for two or more consecutive years, shall take the examination as prescribed for an applicant to become a licensee and comply with all the provisions applicable to any applicant for licensure.

Section 8. That § 36-32-26 be amended to read as follows:

36-32-26. The board may promulgate rules pursuant to chapter 1-26 to set standards for professional practice and establish procedures and fees for applications, licensure, license renewal, reciprocal license, duplicate license, eligibility, continuing education, supervision, examination for licensed professional counselors and licensed professional counselors - mental health.

Section 9. That § 36-32-27 be amended to read as follows:

36-32-27. No licensed professional counselor or licensed professional counselor - mental health or a counselor's employee may disclose any information the counselor may have acquired from persons consulting the counselor in a professional capacity that was necessary to enable the counselor to render services in a professional capacity to those persons except:

- (1) With the written consent of the person or, in the case of death or disability, of the person's own personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;
- (2) That a licensed professional counselor or licensed professional counselor - mental health is not required to treat as confidential a communication that reveals the contemplation or the commission of a crime or a harmful act;
- (3) If the person is a minor under the laws of this state and the information acquired by the licensed professional counselor or licensed professional counselor - mental health indicated that the minor was the victim or subject of a crime, the licensed professional counselor or licensed professional - mental health may be required to testify fully in any examination, trial, or other proceeding in which the commission of such a crime is the subject of inquiry;
- (4) If the person waives the privilege by bringing charges against the licensed professional counselor or licensed professional counselor - mental health.

Section 10. That § 36-32-29 be amended to read as follows:

36-32-29. The license of a licensed professional counselor, licensed counselor, or licensed

professional counselor - mental health may be revoked, suspended, or canceled upon any of the following grounds:

- (1) The licensee is guilty of fraud in the practice of counseling or fraud or deceit in the licensee's admission to the practice of counseling;
- (2) The licensee has been convicted during the past five years of a felony. The conviction of a felony means the conviction of any offense which, if committed within the State of South Dakota, would constitute a felony;
- (3) The licensee is engaged in the practice of counseling under a false or assumed name and has not registered that name pursuant to chapter 37-11, or is impersonating another practitioner of a like or different name;
- (4) The licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate the licensee from the performance of the licensee's professional duties;
- (5) The physical or mental condition of the licensee is determined by a competent medical examiner to be such as to jeopardize or endanger those who seek relief from the licensee. A majority of the board may demand an examination of the licensee by a competent medical examiner selected by the board at the board's expense. If the licensee fails to submit to the examination, this constitutes immediate grounds for suspension of the licensee's license;
- (6) Obtaining or attempting to obtain a license, certificate, or renewal thereof by bribery or fraudulent representation;
- (7) Knowingly making a false statement in connection with any application under this chapter;
- (8) Knowingly making a false statement on any form promulgated by the board in accordance with this chapter or the rules promulgated pursuant to this chapter;
- (9) The licensee has violated any provision of this chapter or the rules promulgated pursuant

to this chapter; and

- (10) The licensee has been found to be in violation of the ethical standards of the American Counseling Association.

Section 11. That § 36-32-35 be repealed.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1049

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1049  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State